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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,184	06/26/2001	Christopher T. Maus	4L01.1-012	6310

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EXAMINER

BLECK, CAROLYN M

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/892,184

Applicant(s)

MAUS ET AL.

Examiner

Carolyn M. Bleck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/6/03, 4/29/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the application filed 26 June 2001. Claims 1-20 are pending. The IDS statement filed 6 May 2003 and 29 April 2005 have been entered and considered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 13 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(A) Claim 13 does not appear to depend on an independent claim. The Examiner assumes that claim 13 was intended to depend on claim 12.

(B) Claim 14, line 1, "the management system" lacks proper antecedent basis. The Examiner assumes that claim 14 should depend on claim 12.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2, 4, 7-10, 12, 16, and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by IEEE article (Sotiris Pavlopoulos, Efthymoulos Kyriacou, Alexis Berler, Spyros Dembeyiotis, and Dimitris Koutsouris, IEEE Transactions on Information Technology in Biomedicine, vol. 2, no. 4, pp. 261-267, December 1998).

(A) As per claim 1, IEEE article discloses a system for use in emergency telemedicine (pg. 261, col. 2, par. 3) comprising:

(a) an interface for communicating biosignals of a patient from a biosignal monitor, such as an ECG, blood pressure, oxygen saturation, or heart rate monitor, to the interface (Fig. 1 on pg. 262, Fig. 2 on pg. 263, pg. 262, col. 2 par. 3-5, pg. 263, col. 1, par. 2);

(b) an ambulance mobile station for capturing still images of the patient or getting data from the biosignal monitor and generating a display on a screen of the images or biosignal data (reads on report), wherein the images and biosignal data are used to treat the patient (Fig. 1 on pg. 262, Fig. 2 on pg. 263, pg. 262, col. 2 par. 3-5, pg. 263, col. 2, par. 1-2, pg. 264, col. 2, par. 1-2);

(c) a display for viewing biosignal data or images (Fig. 1 on pg. 262, Fig. 2 on pg. 263, pg. 262, col. 2 par. 3-5, pg. 263, col. 2, par. 1-2, pg. 264, col. 2, par. 1-2); and

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(d) a GSM modem for communication between the mobile unit or client to the consultation unit or server, wherein the consultation unit is the hospital site and the mobile unit is the ambulance site, wherein the data displayed on the screen (reads on report), such as images and biosignal data are transferred to the consultation unit while the patient is in the ambulance or paramedics and EMTs are on scene (Fig. 1 on pg. 262, Fig. 2 on pg. 263, pg. 262, col. 2 par. 3-5, pg. 263, col. 1-2, pg. 264, col. 2, par. 1-2).

(B) As per claim 2, IEEE article discloses an archiving unit, or DBMS, for archiving all data collected, wherein the data includes previous emergency cases related to a specific patient, older laboratory tests, and other medical examinations (pg. 264, col. 1 par. 3-5 and col. 2).

(C) As per claim 4, IEEE article discloses the interface being a biosignal monitor for receiving signals of ECG, blood pressure, oxygen saturation, or heart rate measurements (Fig. 1 on pg. 262, Fig. 2 on pg. 263, pg. 262, col. 2 par. 3-5, pg. 263, col. 1, par. 2).

(D) As per claim 7, IEEE article discloses a hospital site different from an ambulance site, wherein a GSM modem for communication between the mobile unit or client to the consultation unit or server, wherein the consultation unit is the hospital site and the mobile unit is the ambulance site, wherein the data displayed on the screen, such as

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images and biosignal data are transferred to the consultation unit while the patient is in the ambulance or paramedics and EMTs are on scene (Fig. 1 on pg. 262, Fig. 2 on pg. 263, pg. 262, col. 2 par. 3-5, pg. 263, col. 1-2, pg. 264, col. 2, par. 1-2).

(E) As per claim 8, IEEE article discloses an archiving unit for sending patient data, such as name, and social security number, to the mobile unit (pg. 262 col. 1 par. 3 – col. 2 par. 5, pg. 263, col. 1 par. 2-col. 2 par. 2, pg. 264, col. 1-2).

(F) Claims 9-10 and 18-19 repeat the limitations of claim 1, and are therefore rejected for the same reasons as claim 1, and incorporated herein.

(G) Claim 12 repeats the limitations of claim 1, and is therefore rejected for the same reasons as claim 1, and incorporated herein.

(H) As per claim 16, IEEE article discloses the biosignal monitor being an ECG monitor (considered to be a heart rate monitor) (pg. 262, Fig. 1, and col. 2).

(I) As per claim 20, IEEE article discloses the specialists at the remote site annotating the display of the images and data once it has been received, wherein the annotations are observed in real time by the paramedics at the mobile unit site (pg. 263, col. 2) (the annotations are considered to be a form of receiving a response).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over IEEE article (Sotiris Pavlopoulos, Efthymoulos Kyriacou, Alexis Berler, Spyros Dembeyiotis, and Dimitris Koutsouris, IEEE Transactions on Information Technology in Biomedicine, vol. 2, no. 4, pp. 261-267, December 1998) in view of Groff et al. (6,102,856).

(A) As per claims 3 and 14, IEEE article discloses a GSM modem for communication between the mobile unit or client to the consultation unit or server, wherein the consultation unit is the hospital site and the mobile unit is the ambulance site, wherein the data displayed on the screen (reads on report), such as images and biosignal data are transferred to the consultation unit while the patient is in the ambulance or paramedics and EMTs are on scene (Fig. 1 on pg. 262, Fig. 2 on pg. 263, pg. 262, col. 2 par. 3-5, pg. 263, col. 1-2, pg. 264, col. 2, par. 1-2). The IEEE article fails to expressly disclose a global positioning device that produces data or position data in response to receiving signals from a plurality of remote satellites, wherein the control system generates a second report in response to receiving the position data from the global

positioning device and the communication system transmits the second report to the remote location before the patient arrives.

Groff discloses a vital sign monitor for monitoring ECG data, respiration rate, oxygen uptake, pulse rate, and body temperature, wherein the data is communicated to a remote central facility, wherein the data communicated to the remote central facility is location data obtaining using a ground positioning satellite (GPS), wherein the data is produced as a report (Abstract, col. 2 lines 5-52, col. 3 lines 32-40, col. 4 lines 1-57).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Groff within the system taught by the IEEE article with the motivation of providing the ground position of a patient who is in need of emergency medical attention (Groff; col. 2 lines 22-27).

8. Claims 5 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over IEEE article (Sotiris Pavlopoulos, Efthymoulos Kyriacou, Alexis Berler, Spyros Dembeyiotis, and Dimitris Koutsouris, IEEE Transactions on Information Technology in Biomedicine, vol. 2, no. 4, pp. 261-267, December 1998) in view of Basso, Jr. et al. (6,131,090).

(A) As per claims 5 and 13, IEEE article discloses a cellular (mobile) network using the GSM standard (considered to be a form of a wireless network) (pg. 262 Fig. 1 and col. 2 par. 2). IEEE article does not disclose a data accumulation device being a smart card or a multipurpose card for temporarily storing and transporting medically relevant data.

Basso discloses a method for providing controlled access to medical information stored on a smart card (Abstract, col. 1 lines 20-36, col. 2 lines 27-57). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Basso within the system of the IEEE article with the motivation of allowing appropriate medical personnel to quickly access a patient's medical records (Basso; col. 1 lines 32-35).

9. Claims 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over IEEE article (Sotiris Pavlopoulos, Efthylvoulos Kyriacou, Alexis Berler, Spyros Dembeyiotis, and Dimitris Koutsouris, IEEE Transactions on Information Technology in Biomedicine, vol. 2, no. 4, pp. 261-267, December 1998).

(A) As per claims 6 and 15, the IEEE article does not explicitly state that an input device is selected from the group consisting of a touch-sensitive screen, keyboard, or numeric pad. However, in Fig. 1 on pg. 262, it appears the biosignal monitor has a keyboard or numeric pad. The Examiner respectfully submits that it would have been obvious to include a numeric pad or keyboard as an input device on the biosignal monitor in order for medical professionals to calibrate and reset the machine for each patient.

10. Claims 11 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over IEEE article (Sotiris Pavlopoulos, Efthylvoulos Kyriacou, Alexis Berler, Spyros

Dembeyiotis, and Dimitris Koutsouris, IEEE Transactions on Information Technology in Biomedicine, vol. 2, no. 4, pp. 261-267, December 1998) in view of Teller et al. (6,605,038).

(A) As per claim 11, IEEE article does not expressly disclose a cradle for connecting the data management system to a remote computer system, wherein the control system processes data received from the remote computer system. Teller discloses that a cradle that is electronically coupled to a personal computer into which the sensor device can be inserted, as is common with many commercially available personal digital assistants creates the physical connection between the sensor device and the personal computer in order to upload data from the device (col. 7 lines 1-38). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Teller within the system of the IEEE article with the motivation of providing a commercially available solution for uploading data from the sensor device (Teller; col. 7 lines 1-38).

(B) As per claim 17, IEEE article does not disclose the data displayed on a screen (considered a report) as a triage report or admission form. Teller discloses in Fig. 5 a health manager report which is considered to be a form of a triage report or admission form (Fig. 5, col. 13 line 30 to col. 14 line 49). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Teller within the system of the IEEE article with the motivation of monitoring

physiological information to improve the patient's health (Teller, col. 1 lines 20-52 and col. 2 lines 39-51).

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied prior art teaches a method and apparatus for alerting patients and medical personnel of emergency medical situations (5,416,695), medical alert distribution system with selective filtering of medical information (5,576,952), systems, methods, and computer program products for monitoring, diagnosing, and treating medical conditions of remotely located patients (6,024,699), method of managing and controlling access to personal information (6,073,106), and visit verification method and system (6,591,242).

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn Bleck whose telephone number is (571) 272-6767. The Examiner can normally be reached on Monday-Thursday, 8:00am – 5:30pm, and from 8:30am – 5:00pm on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached at (571) 272-6776.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

13. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 872-9306 or (703) 872-9326 [Official communications]


(703) 872-9327 [After Final communications labeled "Box AF"]

(571) 273-6767 [Informal/ Draft communications, labeled
"PROPOSED" or "DRAFT"]

Hand-delivered responses should be brought to the Knox Building, Alexandria, VA.

RB

CB
September 13, 2005


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